

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 26, 2018

1:30 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Click Bishop

MEMBERS ABSENT

Senator Pete Kelly
Senator Bill Wielechowski

COMMITTEE CALENDAR

SENATE BILL NO. 148

"An Act relating to powers of the Alaska Police Standards Council; and relating to background checks for admission to police training programs and certification as a police officer."

- HEARD & HELD

HOUSE BILL NO. 208

"An Act relating to trusts and powers of appointment; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 148

SHORT TITLE: BACKGROUND CHECKS FOR POLICE & TRAINING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/18/18	(S)	READ THE FIRST TIME - REFERRALS
01/18/18	(S)	STA, JUD
02/08/18	(S)	STA AT 3:30 PM BUTROVICH 205
02/08/18	(S)	Moved SB 148 Out of Committee
02/08/18	(S)	MINUTE(STA)
02/09/18	(S)	STA RPT 3DP 2NR
02/09/18	(S)	DP: MEYER, GIESSEL, EGAN
02/09/18	(S)	NR: WILSON, COGHILL
02/26/18	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

BOB GRIFFITHS, Executive Director
Alaska Police Standards Council (APSC)
Department of Public Safety (DPS)
Juneau, Alaska

POSITION STATEMENT: Introduced SB 148 on behalf of the administration.

KATHRYN MONFREDA, Chief
Criminal Records & Identification Bureau
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Provided supporting information on SB 148.

KATHIE WASSERMAN, Executive Director
Alaska Municipal League
Juneau, Alaska

POSITION STATEMENT: Stated support for SB 148.

ACTION NARRATIVE

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CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Costello, Bishop, and Chair Coghill.

^#sb148

SB 148-BACKGROUND CHECKS FOR POLICE & TRAINING

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CHAIR COGHILL announced the consideration of SB 148.

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BOB GRIFFITHS, Executive Director, Alaska Police Standards Council (APSC), Department of Public Safety (DPS), Juneau, Alaska, introduced SB 148 on behalf of the administration. He explained that APSC was established by the legislature in 1972 to professionalize the standards for hiring and training police officers. In that role, APSC promulgated regulations that included the requirements to be hired as a police officer. Because of the difference between urban and rural policing, one set of regulations was established for urban officers and one for village police officers (VPOs). The latter are hired by and

work for communities of 1,000 or fewer people off the road system.

MR. GRIFFITHS explained that the standards for hiring police officers include the requirement for a fingerprint-based background check. Because many small rural hiring agencies do not have access to the Criminal Justice Information System in order to submit fingerprints and conduct criminal history background checks, APSC has tried to do this on their behalf. This became a problem after the Federal Bureau of Investigation (FBI) determined that all police standards programs fall under occupational licensing, not public safety. APSC does not have the statutory authority to submit fingerprints as an occupational licensing entity. SB 148 addresses that problem by amending state statute granting APSC the statutory authority to take fingerprints and submit them for a criminal background check for applicants for police officer or police officer training in those communities that lack CJIS access. This is the same law that applies to occupational licensing for day care providers, attorneys, real estate agents, and others.

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SENATOR COSTELLO asked if an immediate effective date would be preferable to waiting 90 days after the bill is signed.

MR. GRIFFITHS agreed the sooner the better.

CHAIR COGHILL asked if an immediate effective date would work if regulations need to be written.

MR. GRIFFITHS clarified that the current regulations would not need to be changed. The problem is that APSC lacks the statutory authority to take and submit fingerprints for criminal history records checks. SB 148 grants that power.

CHAIR COGHILL asked if these small agencies would live under the auspices of APSC's regulatory authority for police standards.

MR. GRIFFITHS said that's correct.

CHAIR COGHILL offered his understanding that this was a housekeeping matter.

MR. GRIFFITHS agreed adding that it's a resource issue for small agencies that may have just one or two city employees.

CHAIR COGHILL asked what the practical effect would be to have an immediate effective date.

MR. GRIFFITHS opined that APSC will be compliant with federal law and able to take fingerprints once the bill is signed and the Department of Public Safety, Criminal Records & Identification Bureau is aware of the change.

CHAIR COGHILL requested a sectional analysis.

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MR. GRIFFITHS paraphrased the following sectional summary for SB 148.

Section 1: Amends AS 12.62.400 (National Criminal History record checks for employment, licensing, and other noncriminal justice purposes) to include the new subsection (a) (1) (19) allowing for a fingerprint based records check to be submitted to the FBI for admittance to a basic police training program under AS 18.65.230 (APSC training programs) or for employment as a police officer under 18.65.240(APSC standards for appointment as a police officer), if the prospective employer does not have access to a criminal justice information system (CJIS).

Section 2: Amends AS 18.65.220 (Powers of the APSC) to include the new subsection (8) which requires a state and national criminal history check for an applicant to a training program established in AS 18.65.230 and for a person to be appointed as a police officer under AS 18.65.240 if that person's prospective employer does not have access to CJIS to conduct their own criminal history check.

Section 3: Amends AS 18.65.230 (APSC training programs) by adding a new subsection (b) which requires an applicant for appointment as a police officer or for admittance to a training program to submit fingerprints and a fee to the APSC, unless this has been done by the applicant's employer.

Section 4: Amends AS 18.65.240 (APSC standards) to reflect the new subsection (d), added below in

Section 5: Amends AS 18.65.240 (APSC standards) to add a new subsection (d) which limits the issuing of an

APSC certificate unless the Council determines the applicant will undergo a national criminal history record check pre-employment; and requiring a prospective employer to submit an applicant's fingerprints to the council for submission to the FBI, if the prospective employer does not have CJIS access. The criminal history records check is required to assure applicants meet minimum standards established by the council.

Section 6: Amends AS 18.65.290 (Definitions) by adding a new subsection (9) which clarifies that the meaning of criminal justice information system is the meaning given in AS 12.62.900(13).

Section 7: Specifies the applicability of the Act applies to persons that apply for admittance to a police training program under AS 18.65.230 or to be appointed as a police officer under AS 18.65.240 on or after the effective date of this Act.

Section 8: Includes a revisor's instruction to change the catchline of AS 18.65.230 from "Training programs" to "Training programs; fingerprints"

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CHAIR COGHILL surmised that the definition was needed because APSC must prove its capacity in this new section of law.

Mr. Griffiths agreed.

CHAIR COGHILL asked when the FBI determined that police standards programs fall under occupational licensing and when he became aware of this change.

MR. GRIFFITHS said he wasn't sure when the change occurred, but it was called to his attention about a year ago. He deferred further explanation to Ms. Monfreda.

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KATHRYN MONFREDA, Chief, Criminal Records & Identification Bureau, Department of Public Safety, Anchorage, Alaska, said the change was made several years ago after the FBI reviewed statutes for applicability and compliance with the federal public law 92-544. While DPS considered APSC to be part of the department, the FBI did not and rescinded approval for DPS to submit fingerprints on behalf of APSC. SB 148 complies with the

federal requirement for the state to enact an acceptable law under public law 92-544.

SENATOR COSTELLO asked if the FBI ruling will affect other occupational licensing groups not specifically listed in the statute. "Is that something we should look at before this bill moves out?"

MS. MONFREDA said a few bills are going through the legislature that add to the list under AS 12.62.400, but the department hasn't had many requests in that regard.

CHAIR COGHILL asked how many communities are affected.

MR. GRIFFITHS said the data is incomplete but APSC does know that over 200 communities meet the criteria of less than 1,000 population and off the road system. Records reflect that 7 different communities have had 11 village police officers go through the system successfully.

CHAIR COGHILL commented that the Department of Commerce, Community and Economic Development (DCCED) could probably help with the numbers because small municipalities have probably reached out looking for all the help they can get.

MR. GRIFFITHS agreed adding that they've met and are putting a team effort forward.

CHAIR COGHILL said he hadn't heard any opposition to the bill but would hold it to look at the question of the effective date.

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KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), Juneau, Alaska, said she speaks to communities every day and AML has a lot of the lists that state agencies don't have. "A lot of times agencies or the legislature forget to check with us on those sorts of things." AML also carries risk insurance for municipalities, so they know which ones have police insurance. We have a lot of ways to pull that information for underfunded state agencies, she said.

She explained that she got involved with the bill when she heard committee members in the other body suggest a solution was to have municipalities do their own background checks and fingerprinting. She knew she needed to keep up on the bill to let legislators know that this is a service that the Alaska Police Standards Council is willing and able to offer to small

municipalities that have village police officers. The cost is minimal, but the service is needed; it helps everyone know who is providing law enforcement work in these small communities. This will promote better record keeping on law enforcement in smaller communities. She said she was very supportive of the bill.

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CHAIR COGHILL held SB 148 in committee.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 1:57 p.m.